

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**LOUIS ARCENEUX
and CATHERINE ARCENEUX**

PLAINTIFFS

V.

CIVIL ACTION NO.1:06CV317 LTS-RHW

**STATE FARM FIRE AND CASUALTY COMPANY
and JAMES KELLY CANNON**

DEFENDANTS

MEMORANDUM OPINION

The Court has before it the plaintiffs' motion [11] to remand and Defendant Kelly Cannon's (Cannon) original motion [9] to dismiss and his [40] amended motion to dismiss.

The plaintiffs, by affidavits [38] [39] have acknowledged that Cannon was not the State Farm agent who originally sold them the insurance policy at issue in this case. The plaintiffs' affidavits suggest that the plaintiffs may be aggrieved by Cannon's conduct while he was acting as their insurance agent, but these affidavits also clearly indicate that the cause of action they have stated in their complaint mis-names Cannon as a defendant.

In these circumstances, I will grant Cannon's motions [9] [40] to dismiss, and I will deny the plaintiffs' motion [11] to remand. This action will proceed in this court between the plaintiffs and the remaining defendant, State Farm Fire & Casualty Company. Since this is not an adjudication of the merits of any claim the plaintiffs may have or believe they have against Cannon, the dismissal will be without prejudice to the right of the plaintiffs to present their cause of action, if any, against Cannon in an appropriate forum, should they decide to do so.

An appropriate order will be entered.

DECIDED this 21st day of May, 2007.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE